THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.30741 of 1998

Dated:06.12.2007

Between:

Smt.Rahanath Unnisa Begum and others.

…Petitioners

and

The District Collector, Mahaboobnagar District, and another.

…Respondents.

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.30741 of 1998

ORDER:

The four petitioners claim to be the owners of land admeasuring Acs.2.26 guntas in survey No.915 situated at Veerannapet area of Mahaboobnagar Town. The petitioners are legal heirs of late Sirajuddin who was the pattadar of the land. It is their case that the respondents, namely, the District Collector and the Revenue Divisional Officer, Mahaboobnagar District, took possession of the land without following any procedure for the purpose of providing house site pattas to weaker section beneficiaries. They also allege that on being approached by them, the respondents promised to initiate necessary action under the provisions of the Land Acquisition Act, 1894 (the Act, for brevity). They did not do so. Late Sirajuddin, therefore, approached the Government. In response thereto, the Government of Andhra Pradesh by Memo No.1240/C2/89-20, dated 13.08.1997, directed the District Collector to take necessary action to acquire the land and pay the compensation. Sometime thereafter the second respondent appears to have advised the petitioners by Memo No.F/2051/1998, dated 17.06.1998, to give consent and execute agreement. The petitioners did so on 27.06.1998, but the compensation was not forthcoming. Therefore, they filed the instant writ petition seeking a writ of mandamus directing the respondents to finalize the acquisition proceedings and pay the compensation.

The matter was initially heard by the Hon'ble Sri Justice B.Sudershan Reddy (as his Lordship then was). By an order dated 05.11.1998, his Lordship disposed of the Writ Petition directing the respondents to complete and finalise the proceedings in accordance

with the Government Memo dated 17.06.1997 and pay the compensation within a period of three months. The said order was, however, reviewed. The order dated 05.11.1998 was recalled, and the matter was directed to be heard afresh. In the review filed by the Government it was represented by the learned Advocate General that the respondents distributed house site pattas in the land comprised in Survey No.921 of Veerannapet Village, but the land in Survey No.915 belonging to the petitioners was not distributed as house site pattas. This weighed with the Court when the earlier order was recalled and the matter was directed to be reheard.

Subsequently, the matter was heard number of times. This Court by order dated 14.08.2007 directed the District Collector to get the land surveyed by the Assistant Director, Survey and Settlements, Mahaboobnagar, and to submit his report along with an affidavit. In obedience to the order of this Court, the District Collector appears to have deputed the Assistant Director, Survey and Land Records, Mahaboobnagar, who conducted a joint survey of the land in Survey Nos.915 and 921, and submitted report to the District Collector. The said report annexed to the additional affidavit filed by the District Collector (sworn on 28.10.2007, vide WP (USR) 10598 of 2007), reads as under.

Spot Inspection Report of the Asst.Director Survey and Land Records, Mahabubnagar regarding the Sy.No.915, 921 of Veerannapeta of Mahabubnagar proper as per Hon'ble High Court of A.P.Hyderabad W.P.No.30741 of 1998 dt.14.08.2007

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In obedience to the directions of the Hon'ble High Court of A.P.Hyderabad W.P.No.30741 of 1998 dated 14.08.2007 I have proceeded to the spot to localize and survey the land of Survey No.915 and 921 of Veerannapet of Mahabubnagar proper, the survey nos, has been demarcated with the help of the teepans and also with the help of village map and fix up the boundaries between Survey No.915 and 921. The total extent of Survey No.915 is Ac.10-34 gts. The patta certificate issued in respect of (48) persons in Sy. No.921, but the houses constructed in Sy.No.915, an extent of Ac.02.26 gts approximately, out of which an extent of Ac.01.20 gts covered with houses and each house (150) sq.yards in respect of (48) persons and the remaining area of Ac.01-06 gts i.e.(2-26-1-20=1-06) covered with roads, temple and open area. The balance area of Sy.No.915 i.e. (10-34(-)2-26=8-08) extent covered with houses, roads and open land. The sketch showing the details are enclosed.

Assistant Director
Survey and Land Records,
MAHABUBNAGAR.

After receiving the report of the Assistant Director, the District Collector has filed an affidavit as mentioned above which reads as below.

> It is submitted that as per the directions of the Hon'ble High Court of AP, Hyderabad dated 14.08.2007 in W.P.No.30741 of 1998, the land bearing Sy.Nos.915 and 921 situated within the limits of Mahabubnagar Town have been got surveyed by the Asst.Director of Survey and Land Records, Mahabubnagar. The Survey Report together with plan is submitted for kind perusal of the Hon'ble High Court of AP, Hyderabad.
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> It is submitted that Sy.No.921 has a vast extent of Ac.383.13 gts and belongs to Government as mentioned in the earlier Counter Affidavit. House site pattas were granted to weaker sections in Sy.No.921 only. It is also a fact that the houses constructed in patta land in Sy.No.915 situated at Mahabubnagar which has never been acquired and no house site pattas were granted in the above land.

This Court heard the learned Counsel for the petitioners, Sri B.Narasimha Sarma, and the learned Advocate General. Though Survey No.915, as such, was not acquired by the respondents or the Government by following due process of law under the Act, it stands proved by reason of the report of the Assistant Director and the affidavit of the District Collector that the land admeasuring Acs.2.16 cents is a well developed land with roads, temple and open area, and as many as 48 persons who were allotted house sites allegedly in Survey No.921 raised construction in the land in Survey No.915 belonging to the petitioners. If only the Government had not initiated the action to distribute pattas in Survey No.921 the things would have been different. By reason of such distribution of land in Survey No.921 as house site pattas some people, to say, as many as 48 persons, knowingly or unknowingly raised construction in the land in Survey No.915 admeasuring Ac.1.06 guntas, and the remaining land is covered by roads, temple and open area. Therefore, the Government alone is responsible for paying compensation to the petitioners. There cannot be any dispute on the legal position.

In view of the above, this Writ Petition is disposed of directing the first respondent to initiate land acquisition proceedings immediately and complete within a period of three months from the date of receipt of a copy of this order. This Court also observes that it shall also be open to the respondents herein to negotiate with the petitioners for passing a consent award in accordance with the Andhra Pradesh Land Acquisition (Negotiations Committee) Rules, 1992, so that the things can be given a quietus expeditiously and the ends of justice would be

met. There shall, however, be no order as to costs.

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(V.V.S.RAO, J)

06.12.2007
vs